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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/783,747	02/15/2001	William R. Blair	ARIBP062	2174
21912 7590 03/03/2009 VAN PELT, YI & JAMES LLP 10050 N. FOOTHILL BLVD #200 CUPERTINO, CA 95014				
EXAMINER				
KESACK, DANIEL				
ART UNIT		PAPER NUMBER		
3691				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

09/783,747

Applicant(s)

BLAIR, WILLIAM R.

Examiner

Daniel Kesack

Art Unit

3691

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 December 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 and 23-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 and 23-26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/C2)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on December 1, 2008 has been entered.

Status of Claims

2. Claims 1-20, and 23-26 are currently pending. The rejections are as stated below.

Claim Rejections - 35 USC § 101

3. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claim 1 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claim 1 recites a process comprising the method steps of receiving orders, determining groups, assigning numbers, aggregating orders, and determining whether the volume meets a threshold. Based on Supreme Court precedent, a proper process must be tied to another statutory class or transform underlying subject matter to a different state or thing (*In Re Bilski*; *Diamond v. Diehr*, 450 U.S. 175, 184 (1981) ; *Parker v. Flook*, 437 U.S. 584,588 n.9 (1978); *Gottschalk v. Benson*, 409 U.S. 63, 70 (1972); *Cochrane v. Deener*, 94 U.S. 780,787-88 (1876)). Since neither of these requirements is met by the claim, the method is not considered a patent eligible process under 35 U.S.C. 101. To qualify as a statutory process, the claim should positively recite the other statutory class to which it is tied, for example by identifying the apparatus that accomplished the method steps or positively reciting the subject matter that is being transformed, for example by identifying the material that is being changed to a different state. Since the steps can be accomplished without the use of another statutory class, it is considered a non-statutory process.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148

USPQ 459 (1966), that are applied for establishing a background for determining

obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

6. Claims 1-5, 10, 14, 15, and 17-20, 23-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shkedy, U.S. Patent No. 6,260,024, in view of Chinnappan

U.S. Patent Application Publication No. 2002/011187, in view of Riordan, U.S. Patent No. 6,078,891, and further in view of Pishevar, U.S. Patent No. 7,124,107.

7. Claims 1-5, 10, 14, 15, 19, 20, 23-26, Shkedy discloses systems and methods for accepting purchase requirements for goods or services from buyers, said purchase requirement specifying the item required, the quantity required, requirement expiration date, along with other specified conditions, (column 5 lines 10-15) and aggregating individual purchase requirements into single pooled purchase requirements, making these pooled purchase requirement detail documents available to potential sellers via a website on the internet, and accepting bids from potential sellers to fulfill said pooled purchase requirements by supplying required goods or services (column 6, lines 3-7 and 15-20). Shkedy teaches a seller-bidding database which stores all information

pertinent to a given transaction, and which is used to complete the transaction after an auction is complete (Column 10, lines 11-25).

Shkedy fails to teach determining groups of functionally equivalent components, wherein for each group of functionally equivalent components, there is one unique number and a plurality of supplier generated numbers.

Riordan teaches a hierarchical numbering directory which assigns numbers based on the product class, and specific product properties, the result of which is a globally unique identifier (column 8 lines 17-61). It would have been obvious to one of ordinary skill in the art at the time of the Applicant's invention to modify the teachings of Shkedy to include the teachings of Riordan because Chinnappan teaches using a globally unique identifier, which a buyer may use to identify a product and to request information or additional transactions from the source of the product (paragraph 10). Chinnappan further teaches that such a hierarchical method may be used for the cataloging of products by sellers and the matching of a buyer's demands to one or more products of one or more sellers (paragraph 23 lines 8-10), such as is performed according to the teachings of Shkedy.

Shkedy, Riordan and Chinnappan fail to teach determining whether the aggregated orders represent a volume of orders that exceeds a threshold volume needed to conduct an auction.

Pishevar discloses a system and method for collective procurement management, wherein orders for products are received from buyers, and are

aggregated for the same items, to form grouped orders. Pishevar further teaches storing incoming orders until a threshold level of order volume is obtained as a result of multiple orders, at which point the order is submitted to the system to be fulfilled by a seller (column 2 lines 58-64). In one embodiment, Pishevar discloses that the orders are fulfilled by submitted the order into a reverse auction process with the suppliers, and Pishevar discloses the invention may include the auction embodiment in connection with the procurement process described previous, which includes the threshold level of order volume limitation (column 11 line 41—column 12 line 10). It would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to modify the teachings of Shkedy, Riordan, and Chinnappan to include the threshold volume of Pishevar because the inventions operate in similar environments, the feature would be used to improve the teachings of Shkedy, Riordan, and Chinnappan, in the same way that the feature improves the procurement system of Pishevar, in that such a threshold would allow suppliers to specify a minimum volume they would be willing to deal in. Such a feature is desirable because group buying discounts is dependant upon volume, and so a minimum volume must be reached in order make it financially beneficial to the suppliers.

Claims 17 and 18, Shkedy teaches at the close of an auction, the processing of invoices, storage, and delivery of goods is conducted by the supplier of said goods.

8. Claims 6-9, 11-13, and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shkedy in view of Riordan, Chinnappan, and Pishevar.

Claims 6-9, 11-13, Shkedy, Chinnappan, Riordan, and Pishevar fail to teach a tool for adding and deleting columns of buyer and supplier information, for calculating values of properties in supplier specific columns, for creating rows to represent properties for supplier independent information, creating rows that represent product properties for supplier specific information, choosing information from drop down menus, calculating the values of a tolerance column based on corresponding buyer-specific properties, determining whether values are within an acceptable tolerance for given properties, and highlighting factors which are outside said acceptable tolerances.

As cited in a previous Office Action (6/19/06, p.4), Examiner has considered as admitted prior art that spreadsheet capabilities such as creating, adding, and deleting rows and columns, calculating values based on row and column values, and the use of drop down menus is old and well known in the art.

It would have been obvious to one of ordinary skill in the art at the time of the invention to include spreadsheet capabilities and drop down menus in the claimed invention to organize and process products and orders, as said capabilities simplify use and automate routinely performed functions within the system.

Claim 16, Shkedy, Riordan, Chinnappan and Pishevar fail to teach setting the price of a winning supplier as the new price of the functionally equivalent component.

As cited in a previous Office Action (6/19/06, p.4), Examiner has considered as admitted prior art that basing the new price on previously received bids in an auction is old and well known in the art. It would have been obvious to one of ordinary skill in the art at the time of the invention to adjust the current price to match the most recent purchase price, so as to keep prices current and up-to-date.

Response to Arguments

9. Applicant's arguments with respect to claims 1-20 and 23-26 have been considered but are moot in view of the new grounds of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel Kesack whose telephone number is (571)272-5882. The examiner can normally be reached on M-F, 9:00am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Alexander Kalinowski can be reached on 571-272-6771. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Respectfully Submitted,

Daniel Kesack
March 1, 2009
/D. K./
Examiner, Art Unit 3691

/Hani M. Kazimi/
Primary Examiner, Art Unit 3691